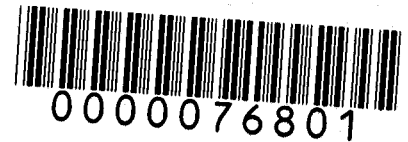


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BEFORE THE ARIZONA CORPORATION COMMISSION

2007 SEP -7 P 3:00

Arizona Corporation Commission

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MIKE GLEASON, Chairman
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KRISTIN K. MAYES
GARY PIERCE

IN THE MATTER OF THE JOINT APPLICATION
OF THE ARIZONA ELECTRIC POWER
COOPERATIVE, INC. AND SOUTHWEST
TRANSMISSION COOPERATIVE, INC. FOR
PERMISSION TO REFUND CERTAIN AMOUNTS
RELATING TO AUGUST BILLINGS

Docket Nos. E-01773A-05-0679
E-04100A-05-0679

EXCEPTIONS

The Arizona Electric Power Cooperative, Inc. ("AEP CO") and Southwest Transmission Cooperative, Inc. ("SWTC") (collectively, "the Cooperatives") submit these exceptions to the Staff Report and Recommended Order dated June 20, 2007.

On Sunday, July 17, 2005, a unique set of circumstances combined to prevent Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC") and Trico Electric Cooperative, Inc. ("Trico") and their members from reducing loads under their load control programs on what turned out to be AEP CO's peak day that month. Under their tariffs, AEP CO and SWTC had no choice but to bill SSVEC and Trico based on that peak. As a result, all retail members of those systems collectively paid a higher wholesale bill than they should have if the cooperatives had known the peak was occurring.

After considering the benefits these load reduction programs provide the entire AEP CO system as well as the "perfect storm" of circumstances which prevented SSVEC and Trico customers from participating that Sunday afternoon, the Cooperatives' Boards voted to seek Commission approval to refund approximately \$291,000 so that those cooperatives' retail

1 customers would not be unfairly penalized for circumstances beyond anyone's control. SSVEC
2 and Trico will apply the refund to their power cost adjusters so that all their retail members will
3 receive its benefit.

4 AEPCO, SWTC and their Boards continue to believe that is the most fair and equitable
5 result. They ask that the Commission authorize, pursuant to A.R.S. § 40-374, those refunds in
6 this unique circumstance.

7 THE FACTS

8 Over many years, AEPCO's and SWTC's distribution cooperatives have developed load
9 control programs which allow AEPCO to reduce its peak each month. The programs have three
10 benefits. For the participating member, the programs result in a lower retail bill, although they
11 must adjust their operations and/or incur expense to do so. Second, for all retail customers on
12 the distribution cooperative's system, the programs result in a lower wholesale bill which
13 reduces the bill each retail member must pay—regardless of whether they participate directly in
14 the load control program. Finally, the programs lower costs for every distribution cooperative
15 and retail customer on the AEPCO system by avoiding or delaying the need to build additional
16 generating capacity.

17 In order to send the signals necessary for the retail members to control load, the
18 Cooperatives estimate what will be, and then closely monitor, the system peak each month. In
19 order to monitor the Mohave Electric Cooperative, Inc. ("MEC") peak, the Cooperatives depend
20 upon real-time load information transmitted by the Western Area Power Administration
21 ("WAPA") which administers the control area for MEC's service territory. The Cooperatives
22 take this information from WAPA on MEC's load, combine it with information on the other
23
24

1 cooperatives to determine when the system peak is likely to happen and then provide load
2 control notices as a possible peak approaches.

3 Sunday morning, July 17, 2005, the commercial power supplied by the Metropolitan
4 Water District to a WAPA communications facility in northwest Arizona partially failed and
5 ultimately disabled that part of the system which provides information to AEPCO and SWTC on
6 MEC's load. The partial power loss resulted in no power to the site's battery charger, but did not
7 result in a total loss of power which would have started WAPA's back-up generator. The first
8 indication of a problem was when the batteries were no longer able to power the site. WAPA
9 promptly dispatched personnel to the site to manually start the back-up generator, but the
10 facilities are a six-hour drive from Phoenix. As a result, power was not restored to the
11 communications site until early evening.

12 After all data for the month was in, the Cooperatives determined in early August 2005
13 that Sunday, July 17, had been the peak day for that month on the AEPCO system—an unusual
14 occurrence on the AEPCO system. The communications failure, however, prevented
15 AEPCO/SWTC from knowing that at the time it was happening. Thus, load control notices were
16 not sent to the member distribution cooperatives nor the retail members involved in the load
17 control programs. As a result, they were not given the opportunity they should have been given
18 to reduce their loads on peak.

19 As the Staff Report indicates, AEPCO and SWTC billed all cooperatives strictly in
20 accordance with their tariffs. However, considering the benefits which the load control programs
21 provide the entire AEPCO system, combined with the fact that notices were not sent for reasons
22 beyond any member's or the Cooperatives' control, the AEPCO and SWTC Boards unanimously
23 voted to ask Commission approval to bill SSVEC and Trico based upon the peak load of

1 Saturday, July 16—which turned out to be that month’s second highest peak—when the
2 communications system did function, all notices were timely sent and all participating consumers
3 were given an opportunity to and, in fact, did participate in the load control program. They
4 continue to believe that under these unique circumstances that refund is the most fair and
5 equitable result.

6 **RESPONSE TO STAFF REPORT**

7 At pages 2-4 of the Staff Report, Staff recommends that the Commission not approve the
8 Joint Application. The Cooperatives offer these responses to the Staff numbered points:

9 1. The Cooperatives agree with Staff that their tariffs do not authorize them to issue
10 these refunds. Tariffs cannot contemplate in advance all possible circumstances which may
11 justify—as these do—a different bill. That is why the Cooperatives billed Trico and SSVEC
12 according to the terms of their tariffs and then applied to the Commission for permission to make
13 the refunds under A.R.S. § 40-374. That statute allows the Commission to authorize a utility to
14 bill a different charge than its tariff requires in appropriate circumstances such as these.

15 2. Staff states that it’s willing to discuss changes in tariff wording which might
16 handle these circumstances should they arise in the future. The Cooperatives appreciate and will
17 follow up on that offer. However, they still believe that the one-time adjustment requested here
18 is fair and equitable.

19 3. The Cooperatives disagree with the statement at page 3 of the Staff Report that
20 approval of this Application “would unintentionally create a new customer class...billed...on
21 something other than system coincident peak.” All members have been and will continue to be
22 billed based on system coincident peak as required by the tariff. This Application simply seeks
23

1 one-time Commission relief as authorized by the statute for this unique set of circumstances so
2 as to reach a fair result.

3 4. Similarly, in item 4, SSVEC and Trico did nothing to increase "operating costs"
4 and those Cooperatives' retail customers did not benefit "from the extra power...." Instead, the
5 Metropolitan Water District power failure at the WAPA communications site caused the
6 situation. Had the Cooperatives' retail customers received the notices they were entitled to on
7 Sunday, July 17, they would have instituted load control and eliminated the unnecessary "extra
8 power" just as they had on Saturday, July 16.

9 5. While Staff is correct that it is impossible to know precisely what would have
10 happened if interruption notices had been sent on Sunday, July 17, the fact that loads were
11 controlled the weekend day before when interruption notices were sent is strong evidence that
12 the result would have been the same.

13 6. Staff is also correct that the failed communications did not cause AEPCO to buy
14 power at higher spot market prices, did not result in penalty billings and SSVEC and Trico were
15 billed correctly in accordance with the tariffs. However, that does not resolve the inequity
16 created by the fact that all SSVEC and Trico customers paid more that month because
17 participating customers were not given the opportunity to control their loads.

18 7. Finally, Staff expresses concern that the WAPA communications system was not
19 improved after the incident. AEPCO and SWTC have had extensive experience with the WAPA
20 communications system over many years and, as stated in the Staff Report, have no reason to
21 believe that this was anything other than a very unusual, isolated and unavoidable circumstance.

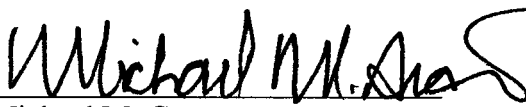
1 CONCLUSION

2 Several unique events had to conspire to create this situation two summers ago.
3 Commercial power had to go down; because of the nature of that power failure, the back-up
4 system designed to keep communications up had to be manually started; AEPCO's system had to
5 peak on a Sunday afternoon; and the remaining two weeks of July 2005 had to quickly cool so a
6 subsequent peak did not occur.

7 The Cooperatives believe this unique set of circumstances is precisely why the
8 Commission is authorized by statute to authorize deviations from tariffs. They would ask that
9 the Commission do so in this case. A suggested form of amendment to the Staff's proposed
10 order is attached as Exhibit A.

11 RESPECTFULLY SUBMITTED this 7th day of September, 2007.

12 GALLAGHER & KENNEDY, P.A.

13
14 By 
15 Michael M. Grant
16 2575 East Camelback Road
17 Phoenix, Arizona 85016-9225
Attorneys for Arizona Electric Power
Cooperative, Inc. and Southwest
Transmission Cooperative

18 **Original and 15 copies** filed this
19 7th day of September, 2007, with:

20 Docket Control
21 Arizona Corporation Commission
22 1200 West Washington
23 Phoenix, Arizona 85007
24

1 **Copies** of the foregoing delivered this
2 7th day of September, 2007, to:

3 Commissioner Mike Gleason, Chairman
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6 Phoenix, Arizona 85007

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8 Arizona Corporation Commission
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10 Phoenix, Arizona 85007

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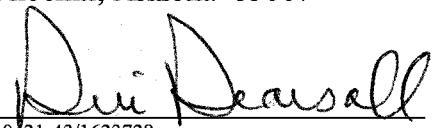
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19 10421-43/1623728

EXHIBIT A

SUGGESTED AMENDMENT TO STAFF'S PROPOSED ORDER

At page 5, l. 17, insert a new Finding of Fact 20 as follows:

20. AEPCO and SWTC filed exceptions to the Staff Report addressing each of the issues raised by Staff in Findings 11 through 17. In summary, they pointed out that their Boards of Directors unanimously approved the request to seek Commission approval of the refunds because a series of events beyond any of the Cooperatives' control deprived SSVEC and Trico customers of the ability to control their loads. Therefore, all retail members on those two systems paid higher bills in July 2005 than they should have. Particularly considering the fact that the load control programs provide benefits and cost reductions to retail customers throughout the AEPCO system, AEPCO and SWTC maintain that approval of the approximately \$291,000 in billing credits—which will be applied by SSVEC and Trico to benefit their members through their power cost adjusters—is a fair and equitable result in these unique circumstances. We agree with the Cooperatives that their Application pursuant to A.R.S. § 40-374 to make this one-time billing adjustment should be granted.

At page 5, l. 27, after “June 20, 2007,” insert “and the Cooperatives’ exceptions dated September 7, 2005” and delete the word “not”.

At page 6, l. 4, delete the word “not”.